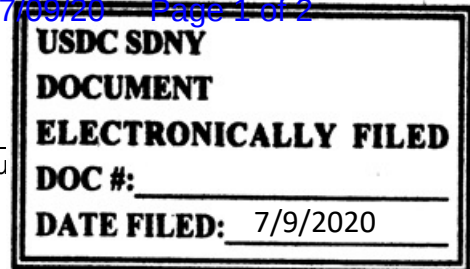# ANDERSON KILL P.C.

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July 9, 2020

Hon. Stewart D. Aaron
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Mazzocchi v. Windsor Owners Corp. et al., 11-cv-07913

Dear Magistrate Judge Aaron:

This is a letter-motion to request that the Court order that that the temporary seal placed on Document 270 by the NYSD Helpdesk as of 11:33 am on July 8, 2020 be continued by court order, subject of course to any future application to unseal.

As I wrote to you by email at 9:23 am on July 8, 2020, I learned from your Order, docket No. 271, that Document 270, which had as an attachment a small set of unredacted documents, had inadvertently been filed in the public docket. I have reproduced that email here:

"**From:** Glen, Jeffrey E.
Sent: Wednesday, July 8, 2020 9:23 AM
To: 'Aaron_NYSDChambers@nysd.uscourts.gov'
Cc: 'Rick Ostrove'; Andrew Costello
Subject: Mazzocchi v. Windsor Owners Corp. et al, Case Number: 1:11-cv-07913-RA-SDA

> Dear Judge Aaron – I write regarding Docket no. 271 in the above case. That refers to my letter to you of yesterday Docket No. 270, which conveyed a small set of redacted and unredacted documents for your review. Because I am working remotely and quite frankly am unfamiliar with the electronic filing systems I asked our managing clerk to file the letter. By a coincidence he left on paternity leave July 6, and his replacement inadvertently filed the letter on the public docket. I will ask his replacement to take the appropriate steps to have the filing removed from the public docket, and continue to request that you conduct the in

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camera review requested in the Docket 270. I regret any inconvenience. By copy of this email to counsel for plaintiff I am asking them to not read the unredacted documents, if they have not yet done so, and if they have, to ignore their content until you have ruled on the redactions. Obviously there was no intent to provide public access, or access to plaintiff's counsel, to the unredacted documents which are the very subject of Docket No. 270."

Our firm's acting managing clerk brought this error to the attention of the NYSD Helpdesk which placed a temporary seal on Docket 270, and advised us, "Please make a formal application to the court for sealing". This letter constitutes that application.

In its order Docket 271, the Court suggested that the application for an *in camera* inspection is moot because the unredacted documents were placed in the public record. I respectfully suggest that despite the fact that the public availability of the documents for a very brief period of time may have enabled counsel for plaintiff to see the unredacted contents, it is appropriate for the Court to carry out the inspection. If the Court find that some or all of the redacted material is in fact privileged, it would be inappropriate for plaintiff to use any information it might have obtained from the unredacted material subsequently in this litigation. See Federal Rules of Evidence Rule 502(b).

I respectfully request that the Court carry out the *in camera* inspection that is the subject of my July 7 letter, and that until it completes that inspection and issues its ruling, it order that Docket 271 remain sealed.

Sincerely yours,

/s/ Jeffrey E. Glen_____
Jeffrey E. Glen

cc: Richard Ostrove, Esq.
       Andrew Costello, Esq.

ENDORSEMENT: The Court has received an email and this letter from defense counsel to its Chambers email box. Defense counsel is admonished that he is not permitted to communicate with the Court via email. Rather, any communications must be made by documents publicly filed to the ECF docket. Plaintiff shall file any response to this letter no later than 7/15/2020. SO ORDERED.
Dated: 7/9/2020